THE BOMBAY COURTS OF ADALAT ACT, 1838.

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ACT No. XVI OF 1838.[1]

[THE BOMBAY COURTS OF ADALAT ACT, 1838.]

[*23rd July 1838.*]

Repealed in part, by Act 14 of 1870 ;
" " " " " 16 of 1874 ;
" " " " " 10 of 1876 ;
" " " " Bom. 2 of 1866 ;
" " " " " 3 of 1876.

Adapted and modified by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

Suit to be brought in Civil and not Revenue Courts.

1. *First.* [2]* * * * * In the [3][Province] of Bombay, all suits in regard to tenures, and the nature and extent of the interest and advantage which in virtue thereof should be enjoyed by the parties concerned, and all suits in which the right to possession of land [4]* * * * * is claimed, shall be brought in the Courts of Adalat and the Courts subordinate thereto, and not in the Courts of revenue.

Second.—[*Summary jurisdiction of Revenue Courts in giving possession.*] *Rep. Bom. III of 1876.*

Third.—[*Saving of certain jurisdiction of Revenue Courts.*] *Rep. Bom. II of 1866.*

Procedure on suits being presented to superior Court doubting its jurisdiction :

2. [5]* * * * * If a suit be presented in the Court of a Judge or Collector, which such Judge or Collector shall not deem within his jurisdiction, the party presenting such suit shall be referred by the Court in which it may be first presented to that in which, in the opinion of such Court, the jurisdiction lies, and the latter Court shall, in the event of its doubting its jurisdiction in the case, refer the question of jurisdiction to the Sadr Diwáni Adàlat, whose decision on the point shall be final.

and in subordinate Court so doubting.

3. [5]* * * * * If a suit be presented in any Court subordinate to the Court of a Judge or Collector, which suit such subordinate Court shall not deem to be within its jurisdiction, such subordinate Court shall submit the case to the Judge's

[1] This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Province of Bombay except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwassi Chiefs :—

(1) The Parvi of Kathi.
(2) The Parvi of Nal.
(3) The Parvi of Singpur.
(4) The Walwi of Gaohalli.
(5) The Wassawa of Chikhli.
(6) The Parvi of Nawalpur.

The short title was given by Bom. 2 of 1921.

[2] The words and figures " It is hereby enacted, in modification of the rules contained in Chapter VII, Regulation XVII of 1827 of the Bombay Code, that " were repealed by the Repealing Act, 1870 (14 of 1870).

[3] This word was substituted for the original words by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

[4] The words " or of the wuttuns of hereditary district or village officers " were repealed by the Bombay Revenue Jurisdiction Act, 1876 (10 of 1876).

[5] The words " And it is hereby enacted, that " were repealed by the Repealing Act, 1874 (16 of 1874).

or Collector's Court to which such subordinate Court is subordinate; and, if the superior Court to which the case is so submitted shall be of opinion that such subordinate Court has jurisdiction in the case, such superior Court shall direct such subordinate Court to proceed with the case; and, if such superior Court shall be of opinion that such subordinate Court has not jurisdiction in the case, such superior Court shall proceed in the manner directed in the last preceding section.

Transfer of suit entered in Court not having jurisdiction.

4. [1]* * * * * Whenever a Court of Adàlat or a Revenue Court shall have entered on its file, under this Act, a suit in which it has not jurisdiction, it shall be competent to the Sadr Diwàni Adalàt, either on a reference from the Judge or Collector, (as the case may be), or on application from the parties, to direct that the suit be transferred, with all the proceedings which may have taken place therein up to the period of transfer, to the Court-possessing jurisdiction, which shall proceed therewith as if the suit had been originally filed in that Court.

Procedure on Court of Appeal finding original suit was decided in wrong Court.

5. [1]* * * * When any Court trying an appeal finds that the action was originally brought and decided in a Revenue Court, when it ought to have been brought and decided in a Court of Adàlat, or a Court subordinate thereto, or that the action was originally brought and decided in a Court of Adàlat, or a Court subordinate thereto, when it ought to have been brought and decided in a Revenue Court, the Court trying the appeal shall, instead of quashing the whole proceedings, annul only the decree and refer the suit to be tried in the Court to which the jurisdiction properly belongs [2]* * * * * * * * *; and the Court trying any such case referred under the foregoing section shall take further pleadings, exhibits and evidence only if it deem such necessary, and shall pass a new decree [2]* * * * * * *.

6. [*Pending suits and appeals.*] *Rep. Act XVI of 1874.*

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[1] The words " And it is hereby enacted, that " were repealed by the Repealing Act, 1874 (16 of 1874).

[2] The words " without further costs of stamps to the parties, except on new exhibits, if any such should be allowed to be filed ", and the words " but if an appeal be made from such new decree the party originally bringing the appeal, then the decree of the Court trying such new appeal shall be passed without the cost of a new stamp on the petition of appeal to that party " were repealed by the Repealing Act, 1870 (14 of 1870).